

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

GLORIA V ARCHILA
1576 MARINA CT, #F
SAN MATEO, CA 94403

Debtor(s)

Chapter 13
Case No: 17-3-0065 HLB
Date: June 21, 2017
Time: 10:10 AM
Cttrm: 450 GOLDEN GATE AVENUE
16th FLOOR - COURTROOM #19
SAN FRANCISCO, CA 94102-

**MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,
TO DISMISS CASE PRIOR TO CONFIRMATION**

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR(S)' ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the Court for an order, dismissing this case for cause(s) for the reasons set forth below.

1. This Court has jurisdiction over this matter pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
2. This Motion is based upon all documents and records on file, together with this Motion, Declaration and any such additional documents, records and evidence which may be presented.
3. Debtor(s) filed for bankruptcy under Chapter 13 on 01/18/2017.
4. This motion for dismissal is made for cause pursuant to:
11 U.S.C. § 1307(c)(1) as there is unreasonable delay that is prejudicial to creditors.
5. The cause to dismiss this case exists as it is in the best interests of creditors and the bankruptcy estate. The Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney must file a timely opposition to this motion no later than fourteen (14) days before the hearing set forth in the accompanying Notice of Motion. You or your attorney must also appear at the hearing date listed in the notice and present argument in opposition to this motion.

DATED: May 11, 2017

DAVID BURCHARD
DAVID BURCHARD, Chapter 13 Trustee

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

GLORIA V ARCHILA
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**DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,
DAVID BURCHARD'S, MOTION TO DISMISS CASE
PRIOR TO CONFIRMATION
AND CERTIFICATE OF MAILING**

I am the custodian and/or keeper of the business records referenced herein and, as such, I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration. If called upon as a witness, I could, and would, competently testify to the facts contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. Debtor(s) filed the instant bankruptcy petition on 01/18/2017. There is unreasonable delay towards plan confirmation that is prejudicial to creditors.
2. As of the date hereof, the following fact(s) exists as cause for dismissal:

_____ Failure to make required payments to the Trustee. \$ _____ is in default under Ch. 13 Plan.
_____ Failure to attend Section 341 Meeting of Creditors scheduled on _____
 X Failure to respond to Trustee's requests – see attachment "A".

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on May 11, 2017 in Foster City, California.

Dated: May 11, 2017

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

CERTIFICATE OF MAILING

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 1065 E. Hillsdale Blvd., Suite #200, Foster City, CA. On the date set forth below, I served a true and correct copy of the **Motion** of Chapter 13 Trustee, David Burchard, to Dismiss Case Prior to Confirmation, the **Declaration** in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Prior to Confirmation and **Certificate of Mailing**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

GLORIA V ARCHILA
1576 MARINA CT, #F
SAN MATEO, CA 94403

GEOFF WIGGS
LAW OFFICES OF GEOFF WIGGS
1900 SOUTH NORFOLK ST. #350
SAN MATEO, CA 94403

Dated: May 11, 2017

ROSA GARCIA
ROSA GARCIA
Case Administrator

DAVID BURCHARD
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

GLORIA V ARCHILA
1576 MARINA CT, #F
SAN MATEO, CA 94403

Case No.: 17-3-0065 HLB
Chapter 13

ATTACHMENT "A"

Debtor(s)

The Trustee made the following requests at least 30 days prior to the filing date of the instant motion :

1. The debtor's plan was filed after the Notice of Bankruptcy was filed and not served on all creditors. Trustee requested the plan be served on all creditors with 28 days' notice, and for a copy of the certificate of service evidencing service of the debtor's plan to be filed with the Court. The debtor has failed to file a certificate of service evidencing said service of the plan.
2. Trustee is in receipt of objection to confirmation of plan by creditor, Wells Fargo Bank, filed on March 6, 2017. Trustee requested that said objection to confirmation of plan be resolved prior to confirmation. The debtor has failed to resolve said objection.
3. Section 2.03 of the plan provides that the debtor's attorney was paid \$0.00 prior to the filing of the case, and that additional fees of \$3,850.00 will be paid through the plan. These amounts are inconsistent with the Statement Pursuant to Rule 2016(B)/Application for Approval of Attorney's Fees. Trustee requested the appropriate documents be amended for consistency and accuracy. The debtor has failed to amend the appropriate documents for accuracy and consistency.
4. Schedule J lists a monthly expense for home maintenance, repair, and upkeep expenses in the amount of \$250.00. Trustee requested verification of said expense. The debtor has failed to provide the requested verification.
5. Schedule J lists a monthly expense for homeowners association or condominium dues in the amount of \$350.00. Trustee requested verification of said expense. The debtor has failed to provide the requested verification.

6. Trustee requested verification of the debtor's qualifications for a homestead exemption of \$175,000.00. The debtor has failed to provide the requested verification.